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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,216	11/17/2000	James M. Salerno		6808

7590

03/12/2003

Irving Keschner
21515 Hawthorne Boulevard Suite 1150
Torrance, CA 90503

EXAMINER

COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,216

Applicant(s)

SALERNO, JAMES M.

Examiner

Dolores R. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-10 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-10 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Examiner acknowledges response by applicant's representative received 2/27/03 as well as the corrections/clarifications made to address the issues of the previous action.

Further, examiner would like to indicate that in choosing not to utilize the optional paragraph disclosed in the MPEP Section 1208.02 in the previous office action, does not mean that applicant will/does not have the option to request reinstatement of an appeal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hairston in view of Seibert & Ehrlich and further in view of Hartwell.

Hairston et al discloses a Table Cover System.

Regarding claims 8-10

Hairston teaches:

- a table cover, with a border, having a predetermined size and shape (see figure 1)
- and
- a Velcro fastening member (16) extending continuously around the circumference of the border of the cover (see figure 1).

The table cover of Hairston is inherently capable of use as a gaming cloth or for a gaming table. Moreover, there is *it is inherent that* no reason why his table could ~~not~~ be used for gaming, such as playing cards. Hairston lacks the teaching of a first fastening member being secured to a second fastening member (the second fastening member being attached to the circumference of the table).

Ehrlich discloses a Table Skirt-Attaching Method.

Ehrlich teaches:

- a table with a surface portion, a portion extending perpendicular from the surface and a fastening member (74) secured around the circumference of the table.

The recitation of a “gaming table” is deemed to be intended use rather than structure, and new use does not have patentable weight if structure is known. However, if for purposes of argument “gaming table” were deemed to have weight, then it would have been obvious to use the table of Ehrlich for gaming such as playing cards to make the table the table more versatile.

Ehrlich does not teach that his table is a gaming table, however, there is no reason why it could not be used for gaming.

Hairston fails to explicitly teach that his table cover is a gaming cloth (with gaming symbols) or for a gaming table. The patent to Seibert discloses a Gaming Table Cloth. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the table covering of Hairston to so that it can function as of a gaming table cloth as taught by Seibert in order to extend its' functionality.

The patent to Hartwell discloses a Food Rack Cover. Hartwell is used to show that the teaching of a first fastening member being secured to a second fastening member (the second fastening member being attached to the circumference of the Rack/object (or table) being covered) is known. It would have been obvious in view of Hartwell to attach the fitted fabric cover (10) of Hairston directly to the table edge using continuous Velcro around the table edge.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seibert & Ehrlich and further in view of Hartwell as applied to claim 8 above, and further in view of Sui.

Sui discloses a Disposable Table Cloth.

Sui teaches:

- a fabric table cloth having a predetermined shape and size with a fastening member secured to the bottom surface of the border/tab (see figure 1);
 - a border which extends continuously around the circumference of the table cloth (see figures 1-5);
 - a tablecloth with flaps (see figures 1-5)
- and
- a tablecloth with Velcro Members (see figure 1A reference character "21").

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It would have been obvious to use the design with flap portions, as taught by Sui, in order to offer flexibility, versatility and ease of use when covering the game table.

Response to Argument

Applicant's arguments with respect to claims 8-10 & 14 have been considered but are not persuasive.

Applicant argues, on page 3 – 4th paragraph, that Hairston et al fails to teach Velcro on the border portion itself. Additionally, on page 3 - last paragraph, that Ehrlich fails to teach the tablecloth border portion itself having a fastener. Examiner contends that the patent to Hairston in further view of Hartwell is used to illustrate that this teaching is known in the art and/or would present little or no difficulty to one of ordinary skill.

Applicant argues, on page 4, 2nd paragraph, that Hartwell does not clearly teach that one of the fastener members is attached to the cover itself and the other fastener to a separate underlying structure. Hartwell teaches a cover that is divided at one or more locations. He further teaches that his cover includes fastening means (see abstract, figure 4 & col.2, lines 28-38).

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Finally, applicant argues that the references used are essentially not analogous. Examiner disagrees since the references used are all table covering means and table systems with covering means.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blackmore, Cohen, Hjort, Lee, Billbury, Kring, Ehrlich, Dougherty, Van Stratum, Figueroa, Walker, Conway et al., Schuman (404) & (864), Di Fronzo, Kweito et al., Pirkel et al., Pacione, Brown and Hairston et al. are cited to show the state of art with respect to features of the claimed invention.

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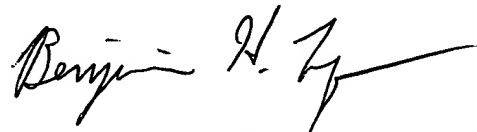
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Dolores R. Collins** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **PAUL SEWELL** can be reached on **(703) 308-2126**. The fax phone numbers for the organization where this application or proceeding is assigned are **(703) 305-3579** for regular communications and **(703) 305-3579** for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 308-1148**.



February 27, 2003



Benjamin H. Layno
Primary Examiner